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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,726	12/19/2001	James R. H. Challenger	AUS920010856US1	2131

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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
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2145

MAIL DATE	DELIVERY MODE
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10/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/034,726	CHALLENGER ET AL.	
	Examiner	Art Unit	
	Jeffrey R. Swearingen	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 11,22 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10,12-21 and 23-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20070913</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 11, 22, and 33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 7/16/2007.
2. For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant. See MPEP 803.
3. Applicant traversed the restriction. Applicant failed to submit any appropriate showings or evidence to rebut the *prima facie* showing. Because of Applicant's failure to submit any appropriate showings or evidence, Applicant's traversal is not persuasive. The restriction requirement is made final.
4. The objection to the drawings is withdrawn.
5. The objection to the disclosure is withdrawn.
6. The rejection of claim 10 under 35 U.S.C. 112, second paragraph is withdrawn.
7. Applicant argued Daugherty failed to disclose aggregating multiple cache requests within a single message. There is no aggregation of multiple cache requests claimed anywhere in the currently submitted claims. Applicant is reading limitations within the specification into the claims.
8. Applicant claimed *searching a cache to determine that a set of fragments associated with a set of source identifiers are not in the cache, wherein a source identifier identifies a source location for obtaining a fragment; sending a first request message comprising the set of source identifiers; and receiving a first response message comprising the set of fragments*. One clip is a set of source identifiers. The use of a set of source identifiers does not limit the number of identifiers to a quantity of two or more, based on set theory mathematics.
9. The term *a plurality of source identifiers* is only present in the non-elected claims.
10. Applicant traversed the Official Notice taken in the last office action. MPEP 2144.03(B) states "[t]he examiner must provide specific factual findings predicated on sound technical and scientific

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reasoning to support his or her conclusion of common knowledge... The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made." MPEP 2144.03(C) states "[t]o adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art."

11. Applicant claimed *determining that a fragment comprises a set of linking elements for a set of next-level fragments, wherein each linking element comprises a source identifier; and scanning the fragment to retrieve the set of source identifiers* in claims 2, 13, and 24. Applicant claimed *retrieving the set of fragments from the first response message; and combining the fragment and the set of fragments into an assembled fragment* in claims 3, 14, and 25.

12. Recursion is "the ability of a routine to call itself." Microsoft Computer Dictionary, Fifth edition, page 443. The SAX parser for XML acts recursively, and calls individual functions every time an element is detected in the serial parsing of an XML document. Each detection of a *fragment* in the XML document reviewed by Daugherty is treated as an event by the SAX parser, and as each *fragment* is detected, the same code is recursively called to treat each *fragment* separately until the entire document is parsed. Evidentiary support for this is given in Hampton, Kip, "High-Performance XML Parsing with SAX", XML.com, February 14, 2001, <http://www.xml.com/pub/a/2001/02/14/perlsax.html>, and the "About SAX", "Genesis", and FAQ for <http://sax.sourceforge.net>, which detail the history of the SAX parser. The FAQ for <http://sax.sourceforge.net> was last modified on 28 November 2001, and the SAX parser started development on 13 December 1997, with a draft release on 12 January 1998 and SAX 1.0 released on 11 May 1998.

13. The elements of *determining that a fragment comprises a set of linking elements for a set of next-level fragments, wherein each linking element comprises a source identifier; and scanning the fragment to retrieve the set of source identifiers, and retrieving the set of fragments from the first response message, and combining the fragment and the set of fragments into an assembled fragment* are additional elements to the determination of a set of fragments are not in the cache. This determination is performed in

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Daugherty by scanning an XML document. One of ordinary skill in the art clearly can see from the existence of the SAX parser for recursive use that stepping through an XML document to identify similar portions of the document and acting accordingly each time the appropriate tag is detected in the parsed document fulfilled Applicant's claimed elements of stepping further through a document to detect additional linking elements to fragments, retrieving said fragments, and combining the response of the functions called by each element/event detection.

14. Applicant argued RFC 1341 failed to teach using MIME for a response message containing multiple uncached fragments. Applicant never claimed a response message containing multiple uncached fragments. Applicant claimed a response message comprising a set of fragments, which can constitute a single fragment.

15. Applicant argued Donohue was not combinable with Daugherty. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Daugherty was used to transmit response messages. Donohue showed the use of SGML as being a commonly known markup language, which could be substituted with HTML and XML interchangeably. Donohue further disclosed how notoriously well known it is for HTTP to be used to transmit data over the Internet. The teachings of Donohue are used to enhance Daugherty. Donohue's teachings are in the background of Donohue, which is used to illustrate the state of the prior art. Both SGML and HTTP were well known at the time of the invention.

16. Applicant argues outdated case law in reference to the rejection under 35 U.S.C. 103(a). See KSR Intern. Co. v. Teleflex Inc., 550 U.S. ___, 127 S.Ct. 1727 (2007).

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

18. Claims 1, 8, 11-12, 19, 22-23 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Daugherty et al. (U.S. Patent No. 6,345,292).

19. In regard to claims 1, 12 and 23, Daugherty discloses a method, apparatus, and computer program product in a computer readable medium comprising *searching a cache to determine that a set of fragments associated with a set of source identifiers are not in the cache, wherein a source identifier identifies a source location for obtaining a fragment; sending a first request message comprising the set of source identifiers; and receiving a first response message comprising the set of fragments*. Daugherty discloses reading a XML data structure to determine what HTML clips are needed, searching a cache for those HTML clips, and providing the HTML clips to the requesting client. See Daugherty, column 5, line 49 – column 6, line 13. By this rationale claims 1, 12 and 23 are rejected.

20. In regard to claims 4-5, 15-16, and 26-27, Daugherty is applied as in claims 1, 12 and 23. Daugherty further discloses receiving a second request message; retrieving the set of source identifiers from the second request message, and sending a second response message comprising the set of fragments. Daugherty discloses use of a second server that supplies clips that were requested yet unavailable to the first server. See Daugherty, column 6, lines 39-46. The second request message and second response message are inherent to a request to a second server for clips unavailable to the first server. By this rationale claims 4-5, 15-16 and 26-27 are rejected.

21. In regard to claims 8, 19, and 30, Daugherty is applied as in claims 1, 12 and 23. Daugherty further discloses a *source identifier is formatted as a URI (Uniform Resource Identifier)*. See Daugherty, column 5, lines 60-65, which teaches that the cache key built based on the XML data structure includes

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the identification of the provider, which would be the *URI*. By this rationale claims 8, 19 and 30 are rejected.

22. In regard to claims 11, 22 and 33, Daugherty discloses *receiving a request message at a server, wherein the request message comprises a set of source identifiers for a set of fragments; generating a response message comprising the set of fragments; and sending the response message*. Daugherty has disclosed the client side of this operation in column 5, line 49 – column 6, line 13, as claimed in claims 1, 12 and 23. Claims 11, 22 and 33 are the server side of this operation. Since the client side has been described in claims 1, 12 and 23, the server side is inherent to the operation but can also be taught in column 5, line 49 – column 6, line 13 of Daugherty. By this rationale claims 11, 22 and 33 are rejected.

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 2-3, 13-14 and 24-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty and Official Notice.

25. In regard to claims 2-3, 13-14, and 24-25, Daugherty is applied as in claims 1, 12 and 23. Daugherty fails to disclose that a fragment can link to more fragments using source identifiers. However, it would be obvious to one of ordinary skill in the art that the process could be repeated as many times as necessary on a retrieved fragment if the system detected that the retrieved fragment contained XML code linking to other fragments. Such a process is called recursion and the office takes Official Notice that recursion has been well known in the field of computer science for decades. By this rationale claims 2-3, 13-14 and 24-25 are rejected.

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26. Claims 6-7, 17-18 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty and RFC 1341.

27. In regard to claims 6, 7, 17, 18, 28 and 29, Daugherty is applied as in claims 5, 1, 16, 12, 27 and 23. Daugherty fails to disclose the use of MIME for a response message. However, RFC 1341 discloses that MIME message formats have been in existence since June 1992. See RFC 1341, page 1. It would be obvious to one of ordinary skill in the networking art at the time of the invention to use MIME messaging formats for a multitude of purposes in conjunction with Daugherty, because MIME is a standard messaging format for the Internet that could be read on any terminal. By this rationale claims 6, 7, 17, 18, 28 and 29 are rejected.

28. Claims 9-10, 20-21 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty and Donohue (U.S. Patent No. 5,987,480).

29. In regard to claims 9, 20 and 31, Daugherty is applied as in claims 2, 13 and 30. Daugherty fails to disclose the use of SGML, but discloses the use of XML and HTML, which are other markup languages. However, Donohue discloses that SGML is a common markup language. See Donohue, column 2, lines 2-3. It would be obvious to one of ordinary skill in the art to use SGML with Daugherty for a number of purposes, including as a linking element. Donohue gives motivation in column 1, lines 55-65, which states that markup languages can show where other portions of the document should be retrieved. By this rationale claims 9, 20 and 31 are rejected.

30. In regard to claims 10, 21 and 32, Daugherty is applied as in claims 1, 12 and 23. Daugherty fails to explicitly disclose the use of HTTP responses and requests. However, Donohue discloses that HTTP is the communications protocol for the web, and is used for data transfer. See Donohue, column 1, lines 42-54. It would be obvious to one of ordinary skill in the networking art to use HTTP with Daugherty for a multitude of purposes, including sending response and request messages, to build a web page in a browser. By this rationale claims 10, 21 and 32 are rejected.

Conclusion

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31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Capers et al. US 2002/0112009 A1

Rouse et al. US 6,983,310 B2

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Jason Cardone
Supervisory Patent Examiner
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JRS